

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Soll et al.
Serial No. : 10/618,975
For : Nodulisporic Acid Derivative Spot-On Formulations for
Combating Parasites
Filed : July 14, 2003
Examiner : Pryor, Alton Nathaniel
Art Unit : 1616
Confirmation No. : 8586

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On October 13, 2008

**AMENDMENT AND RESPONSE TO OFFICE ACTION
UNDER 37 C.F.R. § 1.111, PETITION FOR EXTENSION OF TIME,
STATEMENT OF COMMON OWNERSHIP AND REQUEST FOR INTERVIEW**

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is in response to the June 20, 2008 Office Action, setting a three month term for
reply.

The Commissioner is authorized to charge any additional fee for this paper, or credit any
overpayment in fees for this paper, to Deposit Account No. 50-0320.

PETITION FOR EXTENSION OF TIME

Pursuant to the provisions of 37 C.F.R. §§ 1.136(a) and 1.17(a)(1), Applicants hereby request an extension of time of one (1) month in responding to the Office Action mailed June 20, 2008. Granting of Applicants' request would serve to extend Applicants' due date from September 20, 2008 to October 20, 2008.

The Commissioner is hereby authorized to charge the amount of **\$120.00** to Deposit Account No. 50-0320 to satisfy the fee for a one (1) month extension of time. The Commissioner is hereby authorized to charge any additional fee which may be required for this paper, or credit any overpayment, to Deposit Account No. 50-0320.

STATEMENT OF COMMON OWNERSHIP

Please accept this statement of common ownership which asserts that Merial Limited is the common owner of U.S. Patent Application No. 10/222,559 (“the ‘559 application”) and U.S. Patent Application No. 10/618,975 (“the ‘975 application”).

The Office Action dated June 20, 2008 included a rejection of claims 1, 2, 6, 7, 10, 14, and 17 as being unpatentable over Meinke *et al.* (WO 96/29073) and Cleverly *et al.* (U.S. Patent Application No. 10/222,559) under 35 U.S.C. §103(a).

While it is not agreed that obviousness has been established by the Examiner for the above-mentioned claims, the rejection would be rendered moot if the ‘559 application were ineligible for use as prior art.

Pursuant to 35 U.S.C. § 103(c), MPEP 706.02(l)(1) and MPEP 706.02(l)(2), the burden resides with the applicants to show that the ‘559 patent application and the ‘975 application were commonly owned at the time the claimed invention was made or subject to an obligation of assignment that would establish common ownership.

When the ‘975 application was filed on July 14, 2003, both the ‘975 application and the ‘559 application were assigned to Merial Limited. The ‘559 application is assigned to Merial Limited by virtue of an assignment from Merial SAS recorded at the USPTO on September 8, 2003 at Reel 014461 and Frame 0091 and was assigned to Merial SAS by virtue of an assignment from the inventors recorded at the USPTO on August 21, 2003 at Reel 014407 and Frame 0837. The assignment of the ‘975 application was recorded on September 24, 2008 on Reel 021581/Frame 0615.

Therefore, the appellants believe that common ownership has been established and as such U.S. Patent Application No. 10/222,559 is disqualified as prior art.